

obviousness-type double patenting rejection. Disputing this provisional rejection or filing a terminal disclaimer at this time would be premature as the final claim language has not been otherwise indicated as allowable by the examiner. The claim language may change and render this provisional rejection moot. Moreover, applicant is unaware of any requirement that this issue be addressed at this time. See MPEP 804 (I)(B), which states the merits of such a provisional rejection *can* be addressed. Thus, the requirement to address this issue is permitted but not required. Applicant will consider filing a terminal disclaimer once the claims of the present application or serial no. 09/434,731 are indicated as otherwise allowable or issue.

Item 1(C)

Claims 13-16 and 32-60 were rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention in the prior office action. Item 1(C) states that the examiner established a *prima facie* case for rejection by pointing out features which were not mentioned at all in the specification or drawings. Applicant maintains the position that a *prima facie* case has not been made as stated in the prior response.

Applicant requests an interview to discuss this rejection with the examiner. Applicant also refers the examiner to other applications that are part of the same family of applications as the present application and were allowed by the examiner. These applications include 08/886,753, which issued as 6,286,062; 09/434,587, which issued as U.S. Pat. No. 6,292,877; and 09/434,248, which issued as U.S. Pat. No. 6,247,070. Applicant believes that an interview will advance the prosecution of the present application.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 349-9587 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

KEVIN J. RYAN

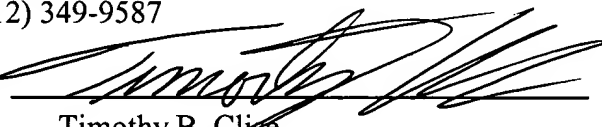
By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 349-9587

Date

9 OCT 2002

By


Timothy B. Clise
Reg. No. 40,957

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 9th day of October, 2002.

Name

Timothy B. Clise

Signature

